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24 Captain Rollin R. Heassler.

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JASON O. WATSON, an individual,

Plaintiff,

vs.

CAPT. ROLLIN R. HEASSLER, an individual,

Defendant.

Civil Action No.: CV 08-01851 JCS

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Date: July 25, 2008

Courtroom: A, 15th Floor

Judge: Hon. Mag. Judge Joseph C. Spero

The parties in this matter hereby submit this Joint Case Management Conference Statement.

JOINT CASE MANAGEMENT CONFERENCE STATEMENT

1 **1. Jurisdiction and Service**

2 The parties agree that this Court has jurisdiction over the federal questions in this matter
3 pursuant to 28 U.S.C. §1331 (West 2008) and that venue is proper. Defendant and
4 Counterclaimant contends that this Court also has jurisdiction of this matter under 28 U.S.C.
5 §§1332, 1338 and 1367 (West 2008). Plaintiff disputes whether diversity jurisdiction exists with
6 regard to Counterclaimant's state-law counterclaims.

7 Counterclaimant has not served Counterdefendant attorney and Counterdefendant law firm.
8 Counterclaimant is awaiting a response from said Counterdefendants regarding whether they are
9 willing to waive personal service and accept service by mail. In addition, the parties have agreed
10 to pursue alternative dispute resolution in the form of an early mediation in order to minimize
11 any unnecessary litigation costs. The parties propose that such service take place no later than
12 ten (10) days after mediation.

13 **2. Facts**

14 Plaintiff JASON O. WATSON alleges that he is a professional photographer who
15 licensed a number of photographs of basketball players to ESPN.com for publication. Plaintiff
16 further contends that such photographs included attribution to him. Plaintiff further contends
17 that Defendant posted five such photographs without authorization on Defendant's website,
18 www.collegehoopsupdate.com, which receives advertising income. Plaintiff denies the
19 counterclaims of Defendant.

20 Defendant and Counterclaimant CAPT. ROLLIN R. HEASSLER denies that he infringed
21 any relevant copyright interest of Plaintiff. Counterclaimant further alleges that he is a combat
22 veteran who is presently the Recruiting Company Commander for the San Francisco Bay Area.
23 Counterclaimant further alleges that Counterdefendants were aware of Defendant's military
24 status when they threatened to subject Captain Heassler to a court martial if he failed to pay
25 Plaintiff's \$10,000 demand. Counterdefendants' conduct gave rise to Counterclaimant's state-
26 law counterclaims for intentional infliction of emotional distress, unfair business practices,
27 unjust enrichment, and conspiracy.
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1 **3. Legal Issues**

2 The principal legal issues in dispute are:

3 a. Whether Plaintiff owned a copyright interest in the subject photographs at the time of
4 the alleged infringement;

5 b. Whether Defendant's alleged posting constituted copyright infringement, and, if so,
6 whether such infringement was willful;

7 c. Whether Defendant removed or altered Plaintiff's copyright management information
8 of the subject photographs and distributed copyright management information that was false,
9 knowing, or having reasonable grounds to know, that it would induce, enable, facilitate, or
10 conceal an infringement; and

11 d. Whether Counterdefendants' alleged threat and related conduct constituted intentional
12 infliction of emotional distress, unfair business practices, unjust enrichment, and conspiracy.

13 **4. Motions**

14 The parties anticipate the following motions:

15 a. Counterdefendants' Motions to Dismiss for lack of subject matter jurisdiction;

16 b. Plaintiff's Motion for Summary Judgment and/or Summary Adjudication; and

17 c. Defendant's Motion for Summary Judgment and/or Summary Adjudication.

18 **5. Amendment of Pleadings**

19 Should early mediation be unsuccessful, Plaintiff and Counterclaimant anticipate making
20 amendments to the pleadings and as may be necessary following discovery.

21 **6. Evidence Preservation**

22 Each party has been notified by their counsel of the obligation to preserve all relevant
23 evidence, including electronically-stored evidence, and have taken steps to do so.

24 **7. Disclosures**

25 Plaintiff has served his Initial Disclosures as of July 18, 2008. Plaintiff consents to
26 Defendant's proposal that he serve his Initial Disclosures no later than August 8, 2008.

1 **8. Discovery**

2 Plaintiff proposes no changes to the limitations on discovery imposed under the Federal
3 Rules of Civil Procedure.

4 Defendant proposes the following limitations on discovery:

- 5 a. ten (10) depositions per party;
6 b. ten (10) non-party deposition subpoenas;
7 c. unlimited document requests per party;
8 d. 100 interrogatories per party;
9 e. unlimited requests for admission per party.

10 **9. Class Actions**

11 This action is not a class action.

12 **10. Related Cases**

13 There are no related cases or proceedings pending before another Judge of this Court or
14 before another Court or administrative body.

15 **11. Relief**

16 Plaintiff seeks from Defendant: an award of profits and damages pursuant to 17 U.S.C. §
17 504 (b); maximum statutory damages in the amount of \$30,000 for each infringement pursuant to
18 17 U.S.C. § 504 (c)(1); maximum statutory damages in the amount of \$150,000 for each
19 infringement pursuant to 17 U.S.C. § 504 (c)(2); maximum statutory damages in the amount of
20 \$25,000 for each infringement pursuant to 17 U.S.C. § 1203(c)(3)(B); and an award of Plaintiff's
21 costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 505
22 and 17 U.S.C. § 1203.

23 Defendant seeks that Plaintiff, Wright and Buckley Brown: be enjoined during the
24 pendency of this action and permanently from threatening to expose or impute disgrace or crime
25 to Defendant; pay jointly and severally all actual, consequential, incidental, statutory, punitive,
26 exemplary, pre-judgment interest and other damages caused by or awardable due to their
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1 wrongful acts; and be required to pay Defendant's reasonable attorney's fees and costs of this
2 action, and such other relief as may be requested in his pleadings.

3 **12. Settlement and ADR**

4 The parties have complied with ADR L.R. 3-5 and have requested an early date for
5 mediation. This Court entered an order on July 15, 2008, that the mediation be held within 45
6 days of the order. The ADR Section has asked the order be amended to add 30 days to the
7 mediation deadline. The parties consent to the proposed modification of the order.

8 **13. Consent to Magistrate Judge for All Purposes**

9 The plaintiff and defendant have consented to assignment of this case to a magistrate for
10 further proceedings.

11 **14. Other References**

12 The parties do not believe this case is suitable for any other reference.

13 **15. Narrowing of Issues**

14 At this time, the parties have no issues other than those below that can be narrowed by
15 agreement or by motion or suggestions to expedite the presentation of evidence at trial (e.g.,
16 through summaries or stipulated facts). As discovery progresses, opportunities to narrow the
17 issues may become apparent.

18 The Plaintiff requests that the issues, claims and defenses of the Counterclaim be
19 bifurcated if Defendant is allowed to proceed with his Counterclaim. Counterclaimant opposes
20 this request for the sake of judicial and party efficiency, among other reasons.

21 In order to avoid later disruption of the litigation schedule, Counterclaimant requests that
22 a determination be made concerning whether an actual or potential conflict of interest may exist
23 between Counterdefendant JASON O. WATSON and his attorneys-of-record,
24 Counterdefendants CAROLYN WRIGHT, ESQ., and BUCKLEY BROWN, P.C., for the
25 extortionary act(s) alleged in the Counterclaim prior to the litigation schedule being set.
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1 **16. Expedited Schedule**

2 The parties do not believe that this is the type of case that can be handled on an expedited
3 basis.

4 **17. Scheduling**

5 The parties request that this matter be scheduled for further case management in
6 approximately two months, following the parties' agreed early mediation, and that the Court not
7 set the litigation schedule at this time.

8 **18. Trial**

9 Parties have requested a jury trial. The expected length of trial is five (5) court days.

10 **19. Disclosure Of Non-Party Interested Entities Or Persons**

11 At this time, the parties have no one to disclose other than the parties themselves.

12 RESPECTFULLY SUBMITTED.

13 Dated: July 18, 2008

THE MORALES LAW FIRM

15 By: /s/ David Morales

16 DAVID MORALES, ESQ.
17 Attorney for Defendant and
Counterclaimant

18 Dated: July 18, 2008

By: /s/ Carolyn E. Wright

19 CAROLYN E. WRIGHT, ESQ.
20 BUCKLEY BROWN, P.C
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21 Atlanta, GA 30329

22 GAVIN KOGAN, ESQ.
Kogan & Associates, LLC
147 River Street, Ste. 234-A
23 Santa Cruz, CA 95060

24 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I certify that I electronically filed **JOINT CASE MANAGEMENT CONFERENCE STATEMENT** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notifications to all counsel of record:

David P. Morales, Esq.
The Morales Law Firm
1414 Soquel Avenue, Suite 212
Santa Cruz, California 95062

This 18th day of July, 2008.

Respectfully submitted,

/s/ Carolyn E. Wright
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